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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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12 JACKSON FAMILY WINES, INC., et al.,

Case No. 11-5639 EMC (JSC)

13 Plaintiffs,

14 v.
15 **ORDER REGARDING DISCOVERY
16 DISPUTE (DKT. NO. 51.)**

17 DIAGEO NORTH AMERICA, INC., et
18 al.,

Defendants.

19 Now pending before the Court is a joint discovery letter brief concerning Plaintiffs'
20 motion to compel Defendants to answer certain Requests for Admission ("RFA"). After
21 carefully considering the parties' disputes, the Court concludes that oral argument is
22 unnecessary, *see* L.R. Civ. 7-1(b), and rules as set forth below.

23 **A. Plaintiffs' Requests for Admission Nos. 1 and 4**

24 Plaintiffs' motion to compel answers to RFA Nos. 1 and 4 is DENIED. Defendants
25 have answered request No. 1: they deny that they compete with wines offered by Plaintiffs in
26 connection with the LA CREMA mark. If Plaintiffs intended a different definition of
27 "compete" from that used by Defendants, the definition should have been set forth in the
28 RFA.

1 As to Request No. 4, the Court agrees with Defendants that “high level of commercial
2 success” is vague and unambiguous. Plaintiffs’ RFA offers no definition of what is meant by
3 a “high level of commercial success.” A “high level of commercial success,” like “beauty,”
4 is in the eye of the beholder. Accordingly, the request is “so ambiguous that [Defendants]
5 cannot, in good faith, frame an intelligent reply.” Schwarzer, et al., *Federal Civil Procedure*
6 *Before Trial* ¶ 11:2059 (2011).

7 **B. Plaintiffs’ Request for Admission Nos. 18, 19, 23, 24, 42, 43, and 44**

8 Plaintiffs’ motion to compel responses to RFA Nos. 18, 23, and 24 is GRANTED. The
9 requests are relevant to Plaintiffs’ intent in selecting the CRÈME DE LYS mark. Plaintiffs’
10 motion as to the remaining requests is DENIED. The requests are vague and ambiguous as to
11 what is meant by similar or derivative trademarks. For example, it is not clear to the Court
12 that “PARADUXX” and “GOLDENYE” are similar or derivative as Plaintiffs imply in
13 Request No. 42. Even if, however, Defendants could at least answer whether they were aware
14 of the brand names identified as examples in the challenged RFA, Plaintiffs do not explain
15 why Defendants’ knowledge of such brand names is relevant.

16 **CONCLUSION**

17 Defendants’ objections to RFA nos. 18, 23 and 24 are not justified; accordingly,
18 Defendants shall serve answers to these requests within 10 days of the date of this Order. *See*
19 Fed. R. Civ. P. 36(a)(6) (“Unless the court finds an objection justified, it must order that an
20 answer be served.”) In all other respects Plaintiffs’ motion is denied.

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22 **IT IS SO ORDERED.**

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24 Dated: May 1, 2013

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27 JACQUELINE SCOTT CORLEY
28 UNITED STATES MAGISTRATE JUDGE